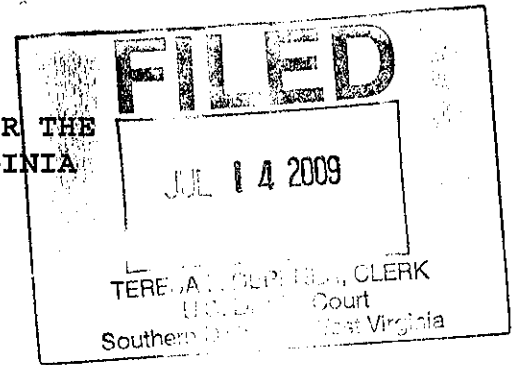


UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY GRAND JURY 2009
JULY 14, 2009 SESSION



UNITED STATES OF AMERICA

v.

CRIMINAL NO.

3:09-00166

18 U.S.C. § 1341

42 U.S.C. § 408(a) (7) (B)

18 U.S.C. § 1343

18 U.S.C. § 1028A

JAMES MICHAEL GIBSON

I N D I C T M E N T

The Grand Jury Charges:

COUNT ONE

(Mail Fraud)

Background

1. At all relevant times in the indictment, defendant JAMES MICHAEL GIBSON was a resident of Putnam and Mason Counties, within the Southern District of West Virginia.

The Scheme to Defraud

2. From on or about May 4, 2007 and continuing through on or about July 2007, at or near Eleanor, Scott Depot and Winfield, Putnam County, and Southside and Point Pleasant, Mason County, West Virginia, and within the Southern District of West Virginia and elsewhere, defendant JAMES MICHAEL GIBSON did knowingly devise and

intend to devise a scheme and artifice to defraud, and did in fact defraud, numerous businesses, banks and merchants through a practice known as "check kiting," through misrepresentation and concealment of material fact.

Manner and Means for Carrying out the Scheme to Defraud

3. It was a part of the scheme and artifice to defraud that on or about May 10, 2007, defendant JAMES MICHAEL GIBSON established a "City Gold Checking Account" with a branch office of City National Bank located in Eleanor, Putnam County, and within the Southern District of West Virginia, and was assigned account number 8004XXXXXX.

4. It was further a part of the scheme and artifice to defraud that defendant JAMES MICHAEL GIBSON, in order to set up an account, provided to City National Bank a social security number (XXX-XX -5289) that was not assigned to him by the Commissioner of Social Security and that defendant JAMES MICHAEL GIBSON knew was not his social security number.

5. It was further a part of the scheme and artifice to defraud that defendant JAMES MICHAEL GIBSON requested checks, for the aforesaid accounts, to be mailed to the address he provided: P.O. Box 251, Point Pleasant, West Virginia.

6. It was further a part of the scheme and artifice to defraud that once defendant JAMES MICHAEL GIBSON received the

checks, he engaged in a practice known as "check kiting." That is, he wrote a series of checks on the City National Bank account knowing there were insufficient funds in the account to cover those checks. He then deposited these worthless checks in other checking accounts he controlled at Branch Bank and Trust ("BB&T") (account number 5175XXXXXX) and Huntington Bank (account number 2222XXXXXX), knowing it was the practice of all three banks to immediately credit the full amount of the deposited check to the account into which it was deposited. Defendant JAMES MICHAEL GIBSON then wrote worthless checks on the BB&T and Huntington Bank accounts and deposited them into his City National Bank account and others (account numbers 8003XXXXXX, 8004XXXXXX, and 8003XXXXXX).

7. It was further a part of the scheme and artifice to defraud that defendant JAMES MICHAEL GIBSON, through this "check kiting" activity artificially and fraudulently inflated the balances of his account at City National Bank by continuously transferring funds between those accounts in the manner set forth above. Thereafter, defendant JAMES MICHAEL GIBSON wrote checks with insufficient funds on the City National Bank, BB&T and Huntington Bank accounts and thereby caused a loss in the amount of approximately \$12,000 dollars to banks, merchants and vendors.

**Use of the Mail in
Furtherance of the Scheme**

8. On or about May 11, 2007, in or near Point Pleasant, Mason County, West Virginia and within the Southern District of

West Virginia and elsewhere, for the purpose of executing the above-described scheme and artifice to defraud, defendant JAMES MICHAEL GIBSON knowingly caused a matter and thing to be delivered by the United States Postal Service according to the directions thereon, namely a box addressed to the defendant JAMES MICHAEL GIBSON, containing personal checks corresponding with the City National Bank account number 8004XXXXXX.

In violation of Title 18, United States Code, Section 1341.

COUNT TWO

(Misuse of a Social Security Number)

1. The Grand Jury re-alleges Paragraphs One through Seven of Count One of this Indictment as if fully set forth herein.

2. On or about May 10, 2007, in or near Eleanor, Putnam County, West Virginia, and within the Southern District of West Virginia, and for the purpose of obtaining something of value and for other purposes, that is, to establish a City National Bank checking account, defendant JAMES MICHAEL GIBSON did knowingly and with intent to deceive, falsely represent to City National Bank a number(XXX-XX-5289) to be the social security account number assigned to him by the Commissioner of Social Security when, in fact, as he well knew, such number was not the social security account number assigned to him by the Commissioner of Social Security.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

COUNT THREE

(Misuse of a Social Security Number)

1. The Grand Jury re-alleges Paragraphs One through Seven of Count One of this Indictment as if fully set forth herein.

2. On or about May 1, 2007, in or near Saint Albans, Kanawha County, West Virginia, and within the Southern District of West Virginia, and for the purpose of obtaining something of value and for other purposes, that is, to establish a BB&T checking account, defendant JAMES MICHAEL GIBSON did knowingly and with intent to deceive, falsely represented to BB&T a number(XXX-XX-5289) to be the social security account number assigned to him by the Commissioner of Social Security when, in fact, as he well knew, such number was not the social security account number assigned to him by the Commissioner of Social Security.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

COUNT FOUR

(Misuse of a Social Security Number)

1. The Grand Jury re-alleges Paragraphs One through Seven of Count One of this Indictment as if fully set forth herein.

2. On or about April 26, 2007, in or near Eleanor, Putnam County, West Virginia, and within the Southern District of West Virginia, and for the purpose of obtaining something of value and for other purposes, that is, to establish a Huntington Bank checking account, defendant JAMES MICHAEL GIBSON did knowingly and with intent to deceive, falsely represented to Huntington Bank a number(XXX-XX-5989) to be the social security account number assigned to him by the Commissioner of Social Security when, in fact, as he well knew, such number was not the social security account number assigned to him by the Commissioner of Social Security.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

COUNT FIVE

(Mail Fraud)

1. The Grand Jury re-alleges Paragraph One of Count One of this Indictment as if fully set forth herein.

The Scheme to Defraud

2. From on or about May 4, 2007 and continuing through on or about July 2007, in or near Southside, Mason County, West Virginia, and within the Southern District of West Virginia and elsewhere, defendant JAMES MICHAEL GIBSON did knowingly devise and intend to devise a scheme and artifice to defraud, and did in fact defraud, a business located in Gallipolis, Ohio known as the John Sang Ford Lincoln Mercury automobile dealership ("John Sang Ford"), through misrepresentation and concealment of material fact.

Manner and Means for Carrying out the Scheme to Defraud

3. It was a part of the scheme and artifice to defraud that on or about February 26, 2007, defendant JAMES MICHAEL GIBSON purchased a 2007 Ford Focus automobile.

4. It was part of the scheme that defendant JAMES MICHAEL GIBSON used the social security number of a person known to the grand jury (hereinafter the first known person) to obtain \$15,298.58 of financing from Ford Motor Credit to facilitate purchase of the Ford Focus automobile from John Sang Ford.

5. It was part of the scheme that defendant JAMES MICHAEL GIBSON provided the mailing address of 979 Happy Valley Road,

Southside, West Virginia as being his home address and the address to which paperwork related to the financing should be mailed.

6. Defendant JAMES MICHAEL GIBSON failed to maintain payments on the Ford Focus and it was ultimately repossessed by the dealership.

7. But for defendant JAMES MICHAEL GIBSON's fraudulent application, Ford would not have sold the car to defendant JAMES MICHAEL GIBSON, who failed to maintain payments for the car, thereby causing a material loss of money to Ford Credit.

Use of the Mail

8. On or about June 11, 2007, at or near Mason County, West Virginia, and within the Southern District of West Virginia and elsewhere, for the purpose of executing and attempting to execute the above-described scheme and artifice to defraud, defendant JAMES MICHAEL GIBSON knowingly caused a matter and thing to be delivered by the United States Postal Service according to the direction thereon, namely, an envelope containing documentation relating to the financing of the 2007 Ford Focus automobile from Ford Credit.

In violation of Title 18, United States Code, Section 1341.

COUNT SIX

(Wire Fraud)

1. The Grand Jury re-alleges Paragraph One of Count One of this Indictment as if fully set forth herein.

The Scheme to Defraud

2. From on or about May 18, 2007 and continuing through in or about January, 2008, at or near Barboursville, Cabell County, West Virginia, and within the Southern District of West Virginia and elsewhere, defendant JAMES MICHAEL GIBSON did knowingly devise and intend to devise a scheme and artifice to defraud, and did in fact defraud Verizon Wireless ("Verizon"), through misrepresentation and concealment of material fact.

Manner and Means for Carrying out the Scheme to Defraud

3. It was a part of the scheme and artifice to defraud that on or about May 18, 2007, defendant JAMES MICHAEL GIBSON opened a Verizon cellular phone account with Verizon.

4. It was part of the scheme that defendant JAMES MICHAEL GIBSON used the social security number of a person known to the grand jury (hereinafter the first known person) to open this account.

5. It was further a part of the scheme that to open the account, Verizon sent the application containing the first known person's social security number through interstate commerce.

6. It was further a part of the scheme that the Verizon account was opened and subsequently used by defendant JAMES MICHAEL GIBSON until it was closed for delinquency in January 2008, resulting in a \$963 loss to Verizon.

Use of Wire Communications

7. On or about May 18, 2007, at or near Barboursville, Cabell County, West Virginia, and within the Southern District of West Virginia and elsewhere, for the purpose of executing the above-described scheme and artifice to defraud, defendant JAMES MICHAEL GIBSON did knowingly transmit and cause to be transmitted by means of wire communication in interstate commerce certain writings, signals, pictures and sounds, that is, an application for a Verizon cellular phone account, which application contained personal identifying information to wit, the social security number of the first known person, and resulted in the fraudulent issuance of the Verizon cellular phone account.

In violation of Title 18, United States Code, Section 1343.

COUNT SEVEN

(Misuse of a Social Security Number)

1. The Grand Jury re-alleges Paragraphs One through Six of Count Six of this Indictment as if fully set forth herein.

2. On or about May 18, 2007, at or near Barboursville, Cabell County, West Virginia, and within the Southern District of West Virginia, and for the purpose of obtaining something of value and for other purposes, that is, to establish a Verizon cellular phone account, defendant JAMES MICHAEL GIBSON did knowingly and with intent to deceive, falsely represented to Verizon a number (XXX-XX-5289) to be the social security account number assigned to him by the Commissioner of Social Security when, in fact, as he well knew, such number was not the social security account number assigned to him by the Commissioner of Social Security.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

COUNT EIGHT

(Aggravated Identity Theft)

1. The Grand Jury re-alleges Paragraphs One through Six of Count Six of this Indictment as if fully set forth herein.

2. On or about May 18, 2007, at or near Barboursville, Cabell County, West Virginia, and within the Southern District of West Virginia, defendant JAMES MICHAEL GIBSON did knowingly transfer, possess and use, without lawful authority, a means of identification of the first known person, during and in relation to violations of 18 U.S.C. § 1343 and 42 U.S.C. § 408(a)(7)(B), that is, wire and social security fraud, by fraudulently and without authorization using a means of identification of the first known person to obtain a Verizon cellular phone account.

In violation of Title 18, United States Code, Section 1028A.

COUNTS NINE THROUGH TWELVE

(Mail Fraud)

The Scheme

1. From on or about January 2008, to on or about May 2009, at or near Southside, Mason County West Virginia, and within the Southern District of West Virginia and elsewhere, defendant JAMES MICHAEL GIBSON did knowingly devise and intend to devise a scheme and artifice to defraud and to obtain money and property, by means of materially false and fraudulent pretenses, representations and promises.

Manner and Means of the Scheme

2. It was part of the scheme that defendant JAMES MICHAEL GIBSON would and did obtain the social security number of the first known person.

3. It was further a part of the scheme that after obtaining the names and other means of identification of the first known person, defendant JAMES MICHAEL GIBSON would and did apply for automobile insurance policies by using the means of identification (to wit-the social security number) of a person known to the Grand Jury ("first known person") to open insurance accounts with Liberty Mutual Insurance Company ("Liberty Mutual"), Permanent General Assurance Corporation of Ohio Insurance Company ("PGAC") and Safeco Insurance Company of America ("Safeco"). At no time did the defendant JAMES MICHAEL GIBSON have authorization from the

Commissioner of the Social Security Administration to use the respective means of identification to open insurance policies.

4. It was further a part of the scheme that defendant JAMES MICHAEL GIBSON would and did have the insurance policies and supporting documentation mailed to him at 971 and/or 979 Happy Valley Road, Southside, West Virginia.

5. It was further a part of the scheme that when the insurance policies were obtained, defendant JAMES MICHAEL GIBSON would and did file multiple fraudulent insurance claims against the respective policies, claiming the same or similar damage to defendant JAMES MICHAEL GIBSON's Ford F-150 truck.

6. It was further a part of the scheme that the repeated filing of the insurance claims resulting insurance companies mailing claims checks to defendant, resulting in total losses of approximately \$10,000 to various insurance companies.

Use of the Mail

7. On or about the date indicated below for each Count, at or near Southside, Mason County, West Virginia, and within the Southern District of West Virginia and elsewhere, for the purpose of executing and attempting to execute the above-described scheme and artifice to defraud, defendant JAMES MICHAEL GIBSON knowingly caused a matter and thing to be delivered by the United States Postal Service and United Parcel Service, a private mail courier according to the direction thereon, namely an envelope containing a claim check generated by the respective insurance company on the

date and in the amount specified below for each Count:

<u>Count</u>	<u>Approximate date of mailing</u>	<u>Insurance Company</u>	<u>Amount of claim</u>
NINE	Feb 15, 2008	Liberty Mutual	\$1761.52
TEN	Feb. 28, 2008	Safeco	\$996.00
ELEVEN	March 17, 2008	PGAC	\$1731.39
TWELVE	May 16, 2008	PGAC	\$3059.00

In violation of Title 18, United States Code, Section 1341.

COUNT THIRTEEN

(Aggravated Identity Theft)

1. The Grand Jury realleges Paragraphs One through Six of Count Nine of this Indictment as if fully set forth herein.

2. On or about February 15, 2008, at or near Southside, Mason County, West Virginia, and within the Southern District of West Virginia, defendant JAMES MICHAEL GIBSON did knowingly transfer, possess and use, without lawful authority, a means of identification of the first known person, during and in relation to violations of 18 U.S.C. § 1341, that is, mail fraud, to obtain a Liberty Mutual insurance policy, from which defendant JAMES MICHAEL GIBSON received a Liberty Mutual claim check in the amount of \$1761.52.

In violation of Title 18, United States Code, Section 1028A.

COUNT FOURTEEN

(Aggravated Identity Theft)

1. The Grand Jury realleges Paragraphs One through Six of Count Nine of this Indictment as if fully set forth herein.

2. On or about February 28, 2008, at or near Southside, Mason County, West Virginia, and within the Southern District of West Virginia, defendant JAMES MICHAEL GIBSON did knowingly transfer, possess and use, without lawful authority, a means of identification of the first known person, during and in relation to violations of 18 U.S.C. § 1341, that is, mail fraud, to obtain a Safeco Insurance Policy, from which defendant JAMES MICHAEL GIBSON received a Safeco claim check in the amount of \$996.00.

In violation of Title 18, United States Code, Section 1028A.

COUNT FIFTEEN

(Aggravated Identity Theft)

1. The Grand Jury realleges Paragraphs One through Six of Count Nine of this Indictment as if fully set forth herein.

2. On or about March 17, 2008 and also on or about May 16, 2008, at or near Southside, Mason County, West Virginia, and within the Southern District of West Virginia, defendant JAMES MICHAEL GIBSON did knowingly transfer, possess and use, without lawful authority, a means of identification of the first known person, during and in relation to violations of 18 U.S.C. § 1341, that is, mail fraud, to obtain two PGAC Insurance Company Policies, from which defendant JAMES MICHAEL GIBSON did receive two PGAC claim checks in the amounts of \$1,731.39 and \$3,059.00, respectively.

In violation of Title 18, United States Code, Section 1028A.

CHARLES T. MILLER
United States Attorney

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